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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/598,728

09/08/2006

Harri Juntunen

AWEK 3513

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7590

03/01/2010

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EXAMINER

O BRIEN, JEFFREY D

ART UNIT

PAPER NUMBER

3677

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/598,728	<b>Applicant(s)</b> JUNTUNEN, HARRI	
	<b>Examiner</b> Jeffrey O'Brien	<b>Art Unit</b> 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation that a second bore intersects both the first channel and second channel appears to be NEW MATTER. The originally filed specification indicates that the first and second channels and control valves 510A and 510B are in the same plane, but indicates that the second control valve 510B does not encumber the flow controlled by 510A, this appears to be due to the fact that the channel is routed around the control valve 510B via member 84. This would indicate that the control valve 510B does not actually intersect with the first channel, because if it were to intersect the first channel, the flow would be encumbered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 13-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art, herein referred to as APA, in view of Junttila (US 5,992,444) herein referred to as '444.

5. For Claim 13, APA discloses each and every element except for a support part and a collar of resilient material surrounding the support part of the control device, the collar being under compression whereby the collar supports the second end of the control device relative to the door closer body and restrains the control device against rocking and swaying movement relative to the door closer body due to flow of pressure medium in said channel. '444 teaches a support part (A) a collar (Annotated Fig. 2b: B) of resilient material (Column 3, Lines 10-11) surrounding a support part (A) of a control device (2), whereby the collar is capable of supporting the second end of the control device relative to the door closer body and restraining the control device against rocking and swaying movement relative to the door closer body due to flow of pressure medium in a channel. It is further noted that APA as modified by '444 would cause the collar to be compressed or pressed together with the housing of the blind hole segment of APA as seen in Fig. 2. It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the control device of APA with the control device of '444 in order to allow the control device to be made of a separate material, which provides for selecting the materials according to the qualities required of each

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part, simplicity of manufacture and manufacturing costs, one would further be motivated to apply the control device of '444 Figure 2 because it is formed of a solid material (Column 4, Lines 1-5) and is more rigid (less flexible) than the hollow body of Fig. 1. This lack of flexibility provided by the solid and longer extending piece of Fig. 2 of '444 is therefore capable of restraining the control device against rocking and swaying.

6. For Claim 14, '444 further teaches wherein the collar (B) has at least one chase (C) to reduce its thickness at a certain part of the collar.

7. For Claim 15, '444 further teaches wherein the collar (B) is plastic (Column 3, Lines 10-11).

8. For Claim 16, '444 further teaches wherein the collar (B) is plastic (Column 3, Lines 10-11) and has at least one chase (C) to reduce its thickness at a certain part of the collar.

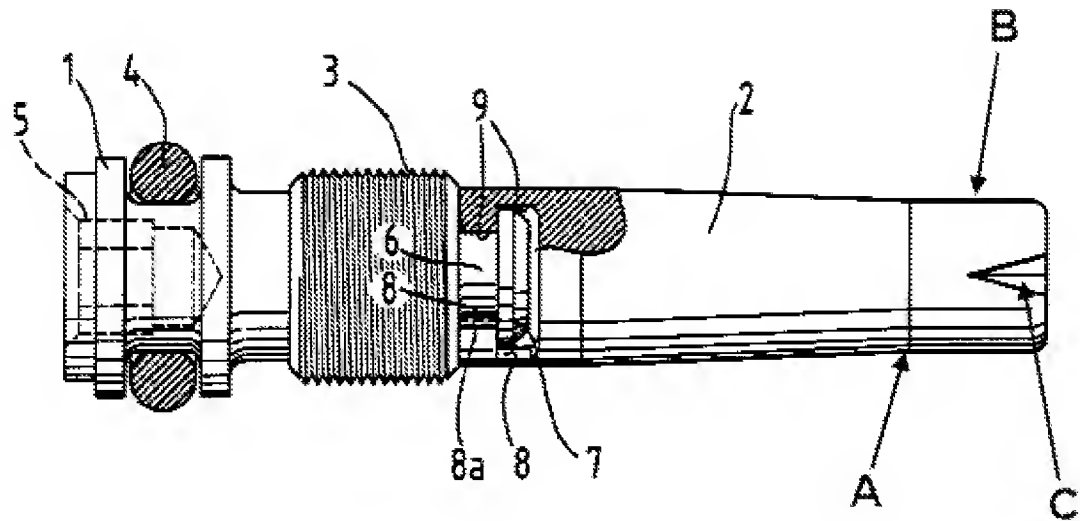
9. For Claim 17, APA further teaches wherein said second segment of the bore is blind (as seen in Fig. 2).

10. For Claims 18-23, APA in view of '444 teach each and every element as outlined in the rejection of claims 13-17 above except for wherein the door closer comprises a second channel, a second bore, a second control device, a second collar, etc. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to comprise a plurality of channels, bores, control devices, collars, etc, as it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art (see MPEP 2144.05). '444 further teaches a bore (Fig. 3: 13) intersecting both a first and second channel (12, 14).

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11. For Claims 24 and 26, APA in view of '444 further teaches wherein the support part (A) of the control device is smaller in diameter than the control part (35/2).

12. For Claims 25 and 27, APA in view of '444 further teaches wherein the collar is plastic, but does not teach wherein the control part and support part are metal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the control part and support part as metal, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. It is also common knowledge to choose a material that has sufficient strength, durability, flexibility, hardness, etc. for the application and intended use of that material.



**Annotated Fig. 2b**

***Response to Arguments***

1. Applicant's arguments filed 12/23/2009 have been fully considered but they are not persuasive.
2. In response to applicant's argument that "the control device shown in Fig. 2a and 2b of Junttila ['444] is designed for use in the door closer shown in Fig. 3 of the reference", the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would

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have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

3. Applicant further argues that the element B shown in annotated Fig. 2b of '444 does show a collar because it is not a short ring formed on a rod or shaft as a locating or holding part. However, collar can be taken to mean "any of various ringlike devices used to limit, guide or secure a machine part". Element B as shown in Fig. 2b is ringlike and can be used to limit, guide and secure the control device into the bore of a door closer.

4. Applicant further argues that the motivation to replace the door closer of APA with the control device of '444 "is not well taken since the issue is whether it would have been obvious to apply the control member shown in Fig. 2b to the APA". Examiner believes Applicant is confused as to the motivation. Column 4, Lines 1-5 of '444 teach using the control member of Fig 2b which is formed as a solid member as opposed to the hollow member of Fig 1b. Examiner notes that the teaching of a solid control device, although more costly has strength and structural support benefits, and that one would be motivated to replace the control device of APA with that of '444 in order to gain strength and structural support for the control device, while maintaining the ability to form the control member and guiding part of different materials.

5. Applicant's amendment and arguments regarding claim 18 having the second bore intersecting both the first and second channels is not persuasive. It appears that although the second bore is in the same plane as the first channel, as indicated by the applicant in the original disclosure, the second control element does not affect the flow



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of the first channel. To avoid affecting the flow of the first channel, the channel appears to go around the second bore, via the channel 84. Examiner maintains that applying a first and second channel each having respective control members would be an obvious duplication of parts. It is further noted that '444 teaches a bore intersecting a first and second channel (as seen in Fig. 3 and outlined in the rejection above).

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey O'Brien whose telephone number is (571)270-3655. The examiner can normally be reached on Monday through Thursday 7:30am-5:30pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victor Batson/  
Supervisory Patent Examiner, Art Unit 3677

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